



**STATE OF NEW YORK  
RACING AND WAGERING BOARD**

**REPORT OF THE  
IMPACT OF ADVANCE DEPOSIT WAGERING  
ON HORSE RACING AND PARI-MUTUEL  
HANDLE IN NEW YORK STATE**

September 14, 2012

## REPORT OF IMPACT OF ACCOUNT WAGERING PROVIDERS

Chapter 58 of the New York State Laws of 2012 added a new Section 911 to the New York State Racing, Pari-Mutuel Wagering and Breeding Law (Racing Law). Section 911 requires the New York State Racing and Wagering Board (Board) to assess the impact of advanced deposit wagering (ADW) in New York State including, but not limited to:

1. The impact of out-of-state account wagering providers (OSAWP) accepting wagers from New York State residents;
2. The annual dollar amount wagered by New York State residents through OSAWPs;
3. The number of OSAWP accounts held by New York State residents;
4. Information concerning New York State residents who utilize OSAWPs including residency.

Section 911 of the Racing Law required that the study, along with any recommendations, be submitted to the Governor and the Legislature by September 15, 2012.

This report summarizes the Board's findings. The Board conducted the study through voluntary surveys with selected OSAWPs. The survey was designed to gather the information required by the law including the amount wagered and residency<sup>1</sup>. The survey summarized the amounts bet on out-of-state racing and detailed the amount bet on the New York racing product (Thoroughbred: Aqueduct Racetrack, Belmont Park, Saratoga Race Course, Finger Lakes Casino & Racetrack and Harness: Batavia Downs, Buffalo Raceway, Monticello Casino & Raceway, Saratoga Casino & Raceway, Tioga Downs Casino, Vernon Downs Casino and Yonkers Raceway).

The Board also assessed the impact of New York State and out-of-state residents betting through New York State entities.

New York State entities that utilize internet and/or telephone wagering were also surveyed. Those entities were NYRA, Saratoga Casino & Raceway, Catskill OTB, Capital OTB, Nassau OTB, Suffolk OTB and Western OTB.

The OSAWPs were selected by the Board due to either their prominence and/or their proximity to the State of New York. The survey requested data from two time periods: calendar year 2010 and year-to-date September 30, 2011. The following OSAWPs were requested to fill out surveys:

AmWest Entertainment, LLC  
Avatar Ventures, LLC  
Bettor Racing  
Connecticut OTB-Sportech Venues  
eBet Technologies, Inc.

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<sup>1</sup> For purposes of the survey a New York resident was defined as an account holder using a New York zip code.

Elite Turf Club N.V.  
Global Wagering Solutions  
Mohegan Sun at Pocono Downs  
NJ Account Wagering  
Parx Racing  
Player Management Group, LLC  
Premier Turf Club  
Racing and Gaming Services Ltd.  
Sol Mutuel Limited  
TwinSpires (incl. YouBet)  
US Off-Track, LLC  
Xpress Bet, LLC

All of the OSAWPs provided completed surveys except Parx Racing, Mohegan Sun at Pocono Downs and Premier Turf Club. TVG was not selected for a survey because at the time the survey was conducted TVG accepted NY accounts only through the Yonkers-TVG account wagering system. The Yonkers-TVG account wagering system was licensed by the Board. All wagers were reported as Yonkers Raceway handle and all statutory distributions were made according to Racing Law. The Yonkers-TVG account wagering system ceased doing business as of the close of business on March 31, 2012. The system handled approximately \$24 million in wagers in 2011. It is believed that the majority of this business migrated to TVG.

OSAWPs offer telephone, internet or other forms of account wagering. The perception has been that OSAWPs have flourished due to convenience, services offered and rebates (cash incentives paid to bettors based on a percentage of wagering volume). OSAWPs typically have much lower overhead and sometimes operate in jurisdictions with minimal regulation. Traditional racetracks and brick-and-mortar style OTBs have complained that the OSAWPs have a competitive advantage and are siphoning off NY residents that would otherwise bet in-state.

It should be noted that the New York State OTBs sued the Board seeking a judgment declaring illegal the practice of Board authorizing in-state tracks to simulcast to out-of-state secondary pari-mutuel entities without prohibiting the acceptance of wagers from New York residents on New York races. Prior to 2008 the Board conditioned approvals of simulcasting from New York State entities to out-of-state entities on the out-of-state entities not accepting such bets from New York State residents. The Board removed the restriction in 2008 along with several other policy changes to eliminate barriers to competition and provide an open and competitive system. New York entities were granted the ability to issue rebates in order to make them competitive with out-of-state entities. On July 26, 2012 the Appellate Division of the New York State Supreme Court dismissed the OTBs lawsuit on the ground that the OTBs did not file the claim in a timely manner as required by statute. The claim was previously dismissed on the merits by a lower court.

## New York Resident Betting

The results of the survey revealed that New York residents bet \$165,567,707 in 2010 and \$142,246,859 YTD 9/30/11 through the responding OSAWPs. This includes wagering on the New York racing product and on out-of-state racetracks. Table 1 provides detail of the handle by New York racetracks and out-of-state racetracks. The Board estimates this handle will exceed \$200,000,000 in 2012.

The survey also showed that OSAWPs listed 18,769 accounts in 2010 and 21,310 accounts in YTD 9/30/11 as New York resident accounts. All 62 New York State counties are represented. Table 2 lists the number of accounts by the county in which the zip code originated. Table 2-A lists the number of accounts by statutorily defined Off-Track Betting Regions. NJ Account Wagering, Sol Mutuel, Global Wagering Solutions and Elite Turf Club reported having no New York accounts.

In order to assess the impact of New York State residents betting out-of-state the Board queried in-state account wagering providers. NYRA, Saratoga Harness, Catskill OTB, Capital OTB, Nassau OTB, Suffolk OTB and Western OTB provide account wagering services in New York State. Yonkers Raceway and New York City OTB previously provided account wagering services. The survey results include 2010 and 2011 data from Yonkers Raceway and 2010 data from NYC OTB.

As Table 3 illustrates, New York State residents bet \$427,743,568 in 2011 and \$416,858,192 in 2010 through the in-state providers. It should be noted that the 2010 figure includes \$135,615,879 of handle from NYC OTB. NYC OTB closed in December 2010. Therefore, it appears as though much of the NYC OTB handle was recouped by in-state entities.

Based on these results, it appears as though NYS residents bet through in-state entities as opposed to out-of-state entities by a ratio of almost two to one. Nevertheless, wagering through OSAWPs is significant. By contrast, NY providers do little business with out-of-state residents. In 2011, there were a total of 4,167 accounts that bet \$17,664,223 through in-state providers. This represents less than 4% of all account wagering handle bet through in-state providers.

The total number of NY Resident Accounts decreased from 113,636 in 2011 to 96,488 to 2010 although most NY entities experienced an increase in accounts. The loss was attributable to the discontinuation of NYC OTB's almost 40,000 accounts.

## Impact

The impact of New York State residents betting through OSAWPs rather than through in-state providers is difficult to measure primarily because of the distribution complexities of the Racing Law. The distribution formulas depend on a number of factors such as which in-state entity takes the wager, horse breed, time of day, other simulcast signals, and which in-state tracks are running a meet or not running a meet ("dark"). Certainly, in-state providers would reap

additional revenues if the wagers were made through the in-state entities. In addition, industry stakeholders and recipients such as horsemen (in the form of purses), breeders, the Board (in the form of a regulatory fee) and State Treasury (in the form of a pari-mutuel tax) would also benefit from the distributions.

It should be noted that OSAWPs do provide a revenue source to in-state tracks. In-state tracks charge a commission or host fee on every wager made through simulcast outlets including OSAWPs. These host fees vary greatly from track to track but tracks generally command a higher fee from OSAWPs (as much as 8.5%). These host fees are shared with the track’s horsemen in the form of purses.

Notwithstanding, the Board has estimated distributions based on historical averages. The distributions were estimated under two scenarios; wagers placed at NY tracks and wagers placed at NY OTBs. In reality, these wagers would most likely be dispersed among the State’s account wagering providers. Distributions are applied as a percentage of handle although they are made from the revenue retained from the pool which is known as “takeout” (The amounts not taken out are returned to winning bettors as the payouts). The takeouts vary by pool and are generally lower for “straight” bets (such as win, place or show) and higher for exotic bets (such as trifectas or superfectas). The blended or average takeout is dependent on the betting habits of a the customer base at an betting site. In NY, blended takeout rates ranged from 20.2% to 23.5% and averaged about 20.5%.

The following charts are an estimation of the theoretical distribution of \$200 million in handle currently bet out-of state as if it were bet in New York:

**Estimated Distribution of \$200 Million of Handle at NYS Tracks/OTBs**

Distributions	Track		OTB	
	Historical Percentage of Handle	Amount	Historical Percentage of Handle	Amount
Handle		120,000,000		80,000,000
Returned to Bettors	79.5%	95,400,000	79.5%	63,600,000
Takeout	20.5%	24,600,000	20.5%	16,400,000
Breeders	0.7%	840,000	0.6%	480,000
Regulatory Fee	0.5%	600,000	0.5%	400,000
Pari-Mutuel Tax	1.2%	1,440,000	0.8%	640,000
Regional Payments	0.25%	300,000	4.0%	3,200,000
Purses	5.0%	6,000,000		
Host Fees	4.5%	5,400,000	4.5%	3,600,000
Retained by Track/OTB	8%	10,020,000	10%	8,080,000

#### Assumptions/Notes:

- Percentages were based on blended historical averages for all tracks.
- Handle was estimated at \$200,000,000 million. 60% or \$120 million was allocated to tracks and 40% or \$80 million was allocated to OTBs based on historical averages.
- “Returned to Bettors” represent winnings.
- Breeders rates range from .5% to .7% depending on horse breed. The historical average was heavily weighted to .7% for tracks due to NYRA.
- Host Fees are the amount paid to sending tracks for purposes of wagering on the simulcast signal. All wagers were assumed to be simulcast wagers. For tracks, the actual amounts would be less because a percentage of the wagers would be on the tracks’ own live product.
- Regional payments are paid to NYS tracks located in an OTB region for wagers made on tracks outside the region. Payments are a percentage of handle. The rate is the blended historical rate on total handle although the majority of these payments are for wagers placed on out-of-state races. Approximately 50% of regional payments received by tracks are dedicated to purses. In the case of NYS tracks, these are the payments made to NYRA and Finger Lakes Racetracks by NYS harness tracks for bets made on out-of-state thoroughbred tracks.
- OTB distributions do not include surcharge, which may be assessed, and would reduce amounts returned to bettor.

#### Recommendations

The Board recommends amending the Racing Law to require out-of-state advance deposit wagering operators who accept wagers from New York residents to be licensed by the New York Racing and Wagering Board. The Board also recommends imposing similar statutory distributions (e.g. pari-mutuel tax, regulatory fee, purse and breeder’s fees contributions) on each wager accepted from New York State residents. Such a change would bring New York State in line with other racing jurisdictions regarding this matter and level the playing field for the New York entities<sup>2</sup>.

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<sup>2</sup> Several jurisdictions such as California, Oregon, Washington, Virginia and Illinois license and collect statutory fees from ADWs who accepts wagers from their residents.

## Note

The data in this report is a culmination of the surveys submitted by the providers. The surveys were voluntary and were not attested to nor audited. Board staff did not request or examine any underlying documentation. The detailed surveys were submitted with the understanding that the information was confidential and the dissemination would harm the respondent's competitive position. Accordingly, only summary information is presented in the report.

Board staff would like to thank NYRA, Saratoga Harness, Yonkers Raceway, Capital OTB, Catskill OTB, Nassau OTB, Suffolk OTB, Western OTB, AmWest Entertainment, Avatar Ventures, Bettor Racing, Connecticut OTB-Sportech Venues, eBet Technologies, Elite Turf Club NV, Global Wagering Solutions, NJ Account Wagering, Player Management Group, Racing and Gaming Services, Sol Mutuel, Twin Spires, US Off-Track and Xpress Bet for their cooperation with this survey.

**TABLE 1****Summary of Wagering at Responding OSAWPS  
by New York State Accounts**

NYS Accounts Betting on:	Year 2010	YTD 9/30/11
<u>NYS Thoroughbred</u>		
NYRA:		
Aqueduct Racetrack	19,757,226	14,668,800
Belmont Park	20,398,102	19,262,693
Saratoga Race Course	14,194,556	17,144,779
Total NYRA	54,349,883	51,076,272
Finger Lakes Racetrack	2,247,164	2,252,529
Total NYS Thoroughbred	56,597,047	53,328,801
 <u>NYS Harness</u>		
Batavia Downs	2,776	65,482
Buffalo Raceway	99,077	178,365
Monticello Raceway	1,238,675	1,477,555
Saratoga Harness	414,241	555,201
Tioga Downs	126,796	188,824
Vernon Downs	157,775	233,414
Yonkers Raceway	2,519,569	3,340,393
Total NYS Harness	4,558,909	6,039,233
Total New York State Racetracks	61,155,956	59,368,034
 Betting on Out of State Racetracks	104,411,751	82,878,825
 Total Betting	165,567,707	142,246,859

**TABLE 2****Summary of NYS Accounts  
At Responding OSAWPs by County**

<b>County</b>	<b>Year 2010</b>	<b>YTD 9/30/11</b>
Albany	561	767
Allegany	13	21
Bronx	419	347
Broome	186	256
Cattaraugus	30	45
Cayuga	71	94
Chautauqua	83	131
Chemung	83	113
Chenango	55	74
Clinton	50	77
Columbia	62	88
Cortland	20	29
Delaware	31	44
Dutchess	304	429
Erie	1,043	1,551
Essex	18	33
Franklin	33	38
Fulton	78	106
Genesee	79	120
Greene	43	69
Hamilton	2	5
Herkimer	65	93
Jefferson	66	97
Kings	1,225	1,007
Lewis	6	7
Livingston	50	66
Madison	71	94
Monroe	833	1,160
Montgomery	75	99
Nassau	1,973	2,004
New York	1,729	1,511
Niagara	198	289
Oneida	285	379

Onondaga	520	710
Ontario	300	389
Orange	366	390
Orleans	27	44
Oswego	116	152
Otsego	51	78
Putnam	140	136
Queens	1,351	1,129
Rensselaer	295	386
Richmond	580	482
Rockland	244	226
St. Lawrence	50	76
Saratoga	917	1,251
Schenectady	333	471
Schoharie	19	28
Schuyler	18	22
Seneca	27	32
Steuben	54	83
Suffolk	1,655	1,963
Sullivan	101	151
Tioga	58	73
Tompkins	55	72
Ulster	186	256
Warren	119	150
Washington	98	129
Wayne	82	111
Westchester	1,130	1,030
Wyoming	21	28
Yates	16	19
<b>Grand Total</b>	<b>18,769</b>	<b>21,310</b>

**TABLE 2-A**

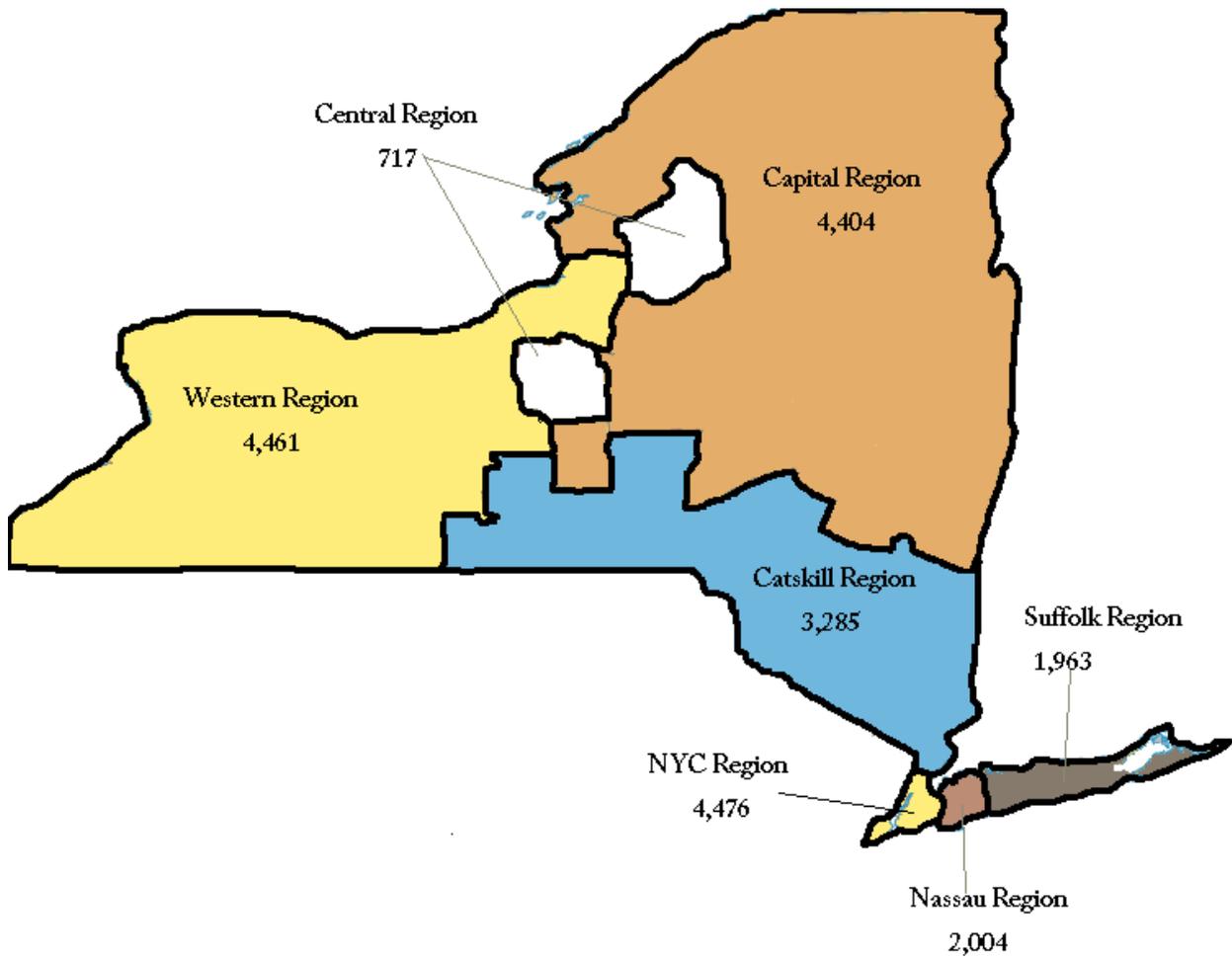
**Summary of NYS Accounts  
at Responding OSAWPs by OTB Region**

<b>OTB Region</b>	<b>Year 2010</b>	<b>YTD 9/30/11</b>
Capital District	3,208	4,404
Catskill	2,969	3,285
Central	526	717
Nassau	1,973	2,004
New York City	5,304	4,476
Suffolk	1,655	1,963
Western	3,134	4,461
Grand Total	<u>18,769</u>	<u>21,310</u>

**Note:**

The Central Region was never formed. In this chart it consists of Onondaga and Lewis counties.

Summary of NYS Accounts  
at Responding OSAWPs by OTB Region  
as of 9/30/2011



**TABLE 3****Summary of Wagering at New York State Entities  
by New York State Account Holders**

NYS Accounts Betting on:	Year 2010	Year 2011
<u>NYS Thoroughbred</u>		
NYRA:		
Aqueduct Racetrack	65,091,972	60,344,033
Belmont Park	73,796,169	71,079,985
Saratoga Race Course	51,908,179	54,775,407
Total NYRA	190,796,320	186,199,425
Finger Lakes	6,977,046	7,377,260
Total NYS Thoroughbred	197,773,366	193,576,685
<u>NYS Harness</u>		
Batavia Downs	421,459	426,678
Buffalo Raceway	388,000	356,388
Monticello Raceway	2,961,915	3,182,038
Saratoga Harness	1,512,262	2,274,778
Tioga Downs	185,531	141,015
Vernon Downs	329,737	568,106
Yonkers Raceway	12,636,221	11,013,773
Total NYS Harness	18,435,125	17,962,776
Total New York State Racetracks	216,208,491	211,539,461
Betting on Out of State racetracks	200,649,701	216,204,107
Total Handle	416,858,192	427,743,568